

*Projects that involve federal funding, permits, or licenses require a Section 106 review, an important regulatory process that influences federal decisions concerning historic properties*

**For More Information:**

Virginia Department of Historic Resources, Office of Review and Compliance:

[www.dhr.virginia.gov/review/orc\\_home.html](http://www.dhr.virginia.gov/review/orc_home.html)

Advisory Council on Historic Preservation:

[www.achp.gov](http://www.achp.gov)

***Public Involvement Matters!***

*By law, citizens have a voice in the Section 106 review process. If you have a demonstrated interest in a federal project, you may become a "consulting party" and provide comments and recommendations.*

**FAUQUIER COUNTY**

**DEPARTMENT OF  
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# S106 Review of the NHPA



**FAUQUIER COUNTY**

**DEPARTMENT OF COMMUNITY  
DEVELOPMENT**

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## What is Section 106?

Section 106 of the National Historic Preservation Act (NHPA) requires federal agencies to consider the effects of their undertakings on historic properties that are listed in or meet the criteria to be listed in the National Register of Historic Places. Section 106 applies to projects that involve federal action, funds, or approval through a federal permit or license. The review process mandated by Section 106 is outlined within the Code of Federal Regulations (36 CFR Part 800), [www.nps.gov/nhl/36cfr800.pdf](http://www.nps.gov/nhl/36cfr800.pdf).

## Federal Involvement

Every day, federal agencies are involved with numerous projects that affect historic properties. For example, the Federal Highway Administration works with states to fund road improvements; the Department of Housing and Urban Development grants funds to provide affordable housing and community improvements; and the Forest Service and the National Park Service make daily decisions about the management of federally-owned lands and buildings.

Sometimes federal involvement is obvious, but often, it is not immediately apparent. For example, the construction of a boat dock or a housing development that disturbs wetlands may require a permit from the U.S. Army Corps of Engineers, or the construction of a cell tower may require a license from the Federal Communications Commission.

## Who Initiates the Section 106 Review Process?

Federal agencies are responsible for initiating Section 106 review, most of which takes place

between the federal agency and the state. The State Historic Preservation Officer (SHPO) coordinates and consults with federal agencies during review. In Virginia, the SHPO is a part of the Virginia Department of Historic Resources, the primary state department involved in the Section 106 review process. Federal agencies are also required to consult with local governments, federally-recognized tribes, and applicants of federal assistance or approval. Additionally, they must give the public an opportunity to learn about the project and provide comments. It is important to note that federal agencies often hire consulting firms to undertake their responsibilities under Section 106.

To successfully complete the Section 106 process, federal agencies must perform the following:

- Gather information to decide which historic properties within an area of potential effect may be affected by a project; (Effects are considered on properties that are listed in or eligible for listing in the National Register of Historic Places.)
- Determine how those historic properties might be affected;
- Explore measures to avoid or reduce harm (“adverse effect”) to the historic properties; and
- Reach an agreement with the SHPO (and in some cases, the Advisory Council on Historic Preservation) on such measures to resolve any adverse effects, or failing that, obtain advisory comments from the ACHP.

## What is an Adverse Effect?

If a project alters the characteristics that qualify a historic property for inclusion in the National Register of Historic Places in a manner that would diminish the integrity of the property, the project is considered to have an adverse effect. Integrity is the ability of a property to convey its significance, based on its location, design, setting, materials, workmanship, feeling, and association. Adverse effects can be direct or indirect and may include the following:

- Physical destruction or damage;
- Alteration inconsistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties;
- Change in the character of a property’s setting or use; and
- Introduction of incompatible visual, atmospheric, or audible elements.

## Getting Involved

To influence the outcome of a project, work through the Virginia Department of Historic Resources or your local government. Individuals and organizations may wish to take a more active role and participate as a consulting party in the review process “due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking’s effects.” In such a case, officially ask the federal agency to become a consulting party. Since the SHPO assists the federal agency in deciding who will participate in consultation, be certain to provide the SHPO’s office with a copy of your request.